

# COMMITTEE REPORT

## MR. PRESIDENT:

The Senate Committee on Finance, to which was referred House Bill No. 1811, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1       Page 2, delete lines 19 through 37, begin a new paragraph and
- 2       insert:
- 3       "SECTION 2. IC 5-17-1-11 IS ADDED TO THE INDIANA CODE
- 4       AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 5       1, 2003]: **Sec. 11. IC 5-22-16-4(b) applies to a lease or purchase of**
- 6       **personal property made after June 30, 2003, by an agency (as**
- 7       **defined in IC 4-13-2-1) or a state educational institution (as defined**
- 8       **in IC 20-12-0.5-1) to the same extent as if the lease or purchase**
- 9       **were subject to IC 5-22.**
- 10       SECTION 3. IC 5-22-16-4 IS AMENDED TO READ AS
- 11       FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) An offeror that
- 12       is a foreign corporation must be registered with the secretary of state
- 13       to do business in Indiana in order to be considered responsible.
- 14       (b) **This subsection applies to a purchase of supplies or services**
- 15       **for a state agency under a contract entered into or purchase order**
- 16       **sent to an offeror (in the absence of a contract) after June 30, 2003,**
- 17       **including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A**
- 18       **state agency may not purchase property or services from a person**
- 19       **that is delinquent in the payment of amounts due from the person**
- 20       **under IC 6-2.5 (gross retail and use tax). A purchasing agent shall**
- 21       **require an offeror submitting a bid or contract to certify that the**

1 **offeror is not an ineligible vendor under this subsection.**

2 (c) The purchasing agent may award a contract to an offeror pending  
3 the offeror's registration with the secretary of state. If, in the judgment  
4 of the purchasing agent, the offeror has not registered within a  
5 reasonable period, the purchasing agent shall cancel the contract. An  
6 offeror has no cause of action based on the cancellation of a contract  
7 under this subsection.

8 SECTION 4. IC 6-2.5-4-14 IS ADDED TO THE INDIANA CODE  
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 2003] **Sec. 14. The department shall provide the Indiana**  
11 **department of administration and each purchasing agent for each**  
12 **state educational institution (as defined in IC 20-12-0.5-1) with a**  
13 **list of persons that are delinquent in remitting or paying amounts**  
14 **due to the department under this article. The department shall**  
15 **periodically revise the list to notify the Indiana department of**  
16 **administration and state educational institutions of additions or**  
17 **deletions from the list.**

18 SECTION 5. IC 6-2.5-8-10 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A person that:

20 (1) makes retail transactions from outside Indiana to a destination  
21 in Indiana;

22 (2) does not maintain a place of business in Indiana; and

23 (3) **either:**

24 (A) engages in the regular or systematic soliciting of retail  
25 transactions from potential customers in Indiana;

26 (B) **enters into a contract to provide property or services**  
27 **to an agency (as defined in IC 4-13-2-1) or an institution of**  
28 **higher education (as defined in IC 20-12-0.5-1); or**

29 (C) **agrees to sell property or services to an agency (as**  
30 **defined in IC 4-13-2-1) or an institution of higher**  
31 **education (as defined in IC 20-12-0.5-1);**

32 shall file an application for a retail merchant's certificate under this  
33 chapter and collect and remit ~~the use~~ tax as provided in this article.

34 **Conduct described in subdivision (3)(B) and (3)(C) occurring after**  
35 **June 30, 2003, constitutes consent to be treated under this article**  
36 **as if the person has a place of business in Indiana or is engaging in**  
37 **conduct described in subdivision (3)(A), including the provisions of**  
38 **this article that require a person to collect and remit tax under this**

1 **article.**

2 (b) A person is rebuttably presumed to be engaging in the regular or  
3 systematic soliciting of retail transactions from potential customers in  
4 Indiana if the person does any of the following:

5 (1) Distributes catalogs, periodicals, advertising flyers, or other  
6 written solicitations of business to potential customers in Indiana,  
7 regardless of whether the distribution is by mail or otherwise and  
8 without regard to the place from which the distribution originated  
9 or in which the materials were prepared.

10 (2) Displays advertisements on billboards or displays other  
11 outdoor advertisements in Indiana.

12 (3) Advertises in newspapers published in Indiana.

13 (4) Advertises in trade journals or other periodicals that circulate  
14 primarily in Indiana.

15 (5) Advertises in Indiana editions of a national or regional  
16 publication or a limited regional edition in which Indiana is  
17 included as part of a broader regional or national publication if  
18 the advertisements are not placed in other geographically defined  
19 editions of the same issue of the same publication.

20 (6) Advertises in editions of regional or national publications that  
21 are not by the contents of the editions geographically targeted to  
22 Indiana but that are sold over the counter in Indiana or by  
23 subscription to Indiana residents.

24 (7) Broadcasts on a radio or television station located in Indiana.

25 (8) Makes any other solicitation by telegraphy, telephone,  
26 computer data base, cable, optic, microwave, or other  
27 communication system.

28 (c) A person not maintaining a place of business in Indiana is  
29 considered to be engaged in the regular or systematic soliciting of retail  
30 transactions from potential customers in Indiana if the person engages  
31 in any of the activities described in subsection (b) and:

32 (1) makes at least one hundred (100) retail transactions from  
33 outside Indiana to destinations in Indiana during a period of  
34 twelve (12) consecutive months; or

35 (2) makes at least ten (10) retail transactions totaling more than  
36 one hundred thousand dollars (\$100,000) from outside Indiana to  
37 destinations in Indiana during a period of twelve (12) consecutive  
38 months.

(d) The location in or outside Indiana of vendors that:

(1) are independent of a person that is soliciting customers in Indiana; and

(2) provide products or services to the person in connection with the person's solicitation of customers in Indiana, including products and services such as creation of copy, printing, distribution, and recording;

is not to be taken into account in the determination of whether the person is required to collect use tax under this section."

Page 7, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 9. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 34. Entertainment Facility Admissions Tax**

**Sec. 1. (a) Except as provided in subsection (b), after June 30 of a year but before January 1 of the following year, the fiscal body of a city may adopt an ordinance to impose an excise tax, known as the entertainment facility admissions tax, for the privilege of attending any event:**

**(1) held in a privately owned outdoor entertainment facility that:**

**(A) has a minimum capacity of at least ten thousand (10,000) patrons; and**

**(B) is located in a geographic area that has been annexed by the city before the adoption of the ordinance; and**

**(2) to which tickets are offered for sale to the public by:**

**(A) the box office of the facility; or**

**(B) an authorized agent of the facility.**

**(b) The excise tax imposed under subsection (a) does not apply to the following:**

**(1) An event sponsored by an educational institution or an association representing an educational institution.**

**(2) An event sponsored by a religious organization.**

**(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.**

**(4) An event sponsored by a political organization.**

**(5) An event for which tickets are sold on a per-vehicle or**

1 similar basis and not on a per-person basis.

2 (c) If the fiscal body adopts an ordinance under subsection (a),  
3 the tax applies to an event ticket purchased after:

4 (1) December 31 of the calendar year in which the ordinance  
5 is adopted; or

6 (2) a later date that is set forth in the ordinance.

7 The tax terminates and may not be collected for events that occur  
8 after the city has satisfied any outstanding obligations described in  
9 section 5(c)(2) of this chapter.

10 Sec. 2. (a) As used in this section, "paid admission" refers to  
11 each person who pays a price for admission to any event described  
12 in section 1(a) of this chapter. The term does not include persons  
13 who are entitled to be at an event without having paid a price for  
14 admission.

15 (b) The entertainment facility admission tax equals fifty cents  
16 (\$.50) for each paid admission to an event described in section 1 of  
17 this chapter.

18 Sec. 3. (a) Each person who pays a price for admission to an  
19 event described in section 1(a) of this chapter is liable for the tax  
20 imposed under this chapter.

21 (b) The person who collects the price for admission shall collect  
22 the entertainment facility admissions tax imposed under this  
23 chapter at the same time the price for admission is paid. The  
24 person shall collect the tax as an agent of the city in which the  
25 facility described in section 1 of this chapter is located.

26 Sec. 4. (a) A person who collects a tax under section 3 of this  
27 chapter shall remit the revenue collected monthly to the city fiscal  
28 officer. The tax collected from persons paying for admission to a  
29 particular event shall be remitted not more than twenty (20) days  
30 after the end of the month during which the event occurred.

31 (b) At the time the tax revenues are remitted, the person shall  
32 report the amount of tax collected on forms approved by the city  
33 fiscal body.

34 Sec. 5. (a) If a tax is imposed under this chapter, the city fiscal  
35 body shall establish a city ticket tax fund. The city fiscal officer  
36 shall deposit money received under section 4 of this chapter in the  
37 city ticket tax fund.

38 (b) Money earned from the investment of money in the fund

1 becomes a part of the fund.

2 (c) Money in the fund may be used by the city only for the  
3 following:

4 (1) Costs to construct, reconstruct, or improve public  
5 thoroughfares or highways to improve ingress or egress to  
6 and from the facility.

7 (2) Payment of principal and interest on bonds issued, or lease  
8 rentals on leases entered into, by the city to finance the  
9 construction, reconstruction, or improvement of public  
10 thoroughfares or highways under subdivision (1). Costs  
11 payable under this subdivision include costs of capitalized  
12 interest and legal, accounting, and other costs incurred in the  
13 issuance of any bonds or the entering into of any leases.

14 (3) Payment of any access or connection fee imposed on the  
15 facility for access to the city's public sewer system, as long as  
16 the fee applies to all property owners served and is uniformly  
17 assessed within the city's corporate boundaries.

18 Sec. 6. The city fiscal body may enter into any agreement or  
19 contract with the owner of the facility to facilitate the  
20 administration of an ordinance adopted under this chapter.

21 Sec. 7. With respect to:

22 (1) bonds, leases, or other obligations to which the city has  
23 pledged revenues under this chapter; and

24 (2) bonds issued by a lessor that are payable from lease  
25 rentals;

26 the general assembly covenants with the city and the purchasers or  
27 owners of the bonds or other obligations described in this section

1       **that this chapter will not be repealed or amended in any manner**  
2       **that will adversely affect the collection of the tax imposed under**  
3       **this chapter or the money deposited in the city ticket tax fund, as**  
4       **long as the principal of or interest on any bonds, or the lease**  
5       **rentals due under any lease, are unpaid.".**

6       Renumber all SECTIONS consecutively.

(Reference is to HB 1811 as reprinted February 19, 2003.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 15, Nays 0.

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**Borst**

**Chairperson**